

### **REMARKS**

Applicants respectfully request further examination and reconsideration in view of the above amendments and the comments set forth fully below. Claims 1-20 and 22-37 were pending. Within the Office Action, Claims 1-20 and 22-37 have been rejected. By the above amendments, Claims 1, 3-5, 23, 26-28 and 36 have been amended. Accordingly, Claims 1-20 and 22-37 are now pending.

#### **Rejections Under 35 U.S.C. § 101**

Within the Office Action, Claims 1-20 and 36 have been rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Applicants respectfully disagree. By the above amendments, the independent Claims 1 and 36 have been amended to be directed to a method of distributing advertisements to a medium over a wide area network. Further, it is specified in the independent Claims 1 and 36 that the selected message is delivered to the content site from a server. Accordingly, the independent Claims 1 and 36 are tied to a particular apparatus and are therefore directed to statutory subject matter.

#### **Double Patenting**

Within the Office Action, Claims 5 and 30 have been objected to as being substantial duplicates of Claims 36 and 37. The Applicants respectfully disagree. In Claim 36, it is specified that the message is automatically generated based on a characteristic of the content site. This limitation is not specified in Claim 5. In Claim 37, it is specified that the database contains a plurality of messages organized by a targeting classification and ranked according to a ranking criterion. It is further specified in Claim 37, that the content inventory and inventory and deal manager is configured to generate a tag embedded in a page configured to be transmitted to the content site, the tag identifying a location in the page for displaying the advertisement. The underlined limitations above are not specified in Claim 30. For at least these reasons, the Claims 36 and 37 are not substantial duplicates of Claims 5 and 30, but do in fact contain patentable differences.

#### **Rejections Under 35 U.S.C. § 112**

Within the Office Action, Claims 3-5, 23 and 26-28 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim

the subject matter which applicant regards as the invention. Within the Office Action, it is stated that Claims 5 and 27 each recite a selected message while the claim each depends on, teach selecting a message. By the above amendments, Claims 5 and 27 have both been amended to specify “the selected message.”

Within the Office Action, it is stated that Claims 3 and 4 unclearly recite the message. By the above amendments, Claims 3 and 4 have both been amended to specify “the selected message.”

Within the Office Action, it is stated that Claim 23 recites the messages. By the above amendments, Claim 23 has been amended to specify that the messages are selected from the group consisting of a text message, a video message and an audio message.

Within the Office Action, it is stated that Claim 26 recites a message. By the above amendments, Claim 26 has been amended to specify “the message.”

Within the Office Action, it is stated that Claim 28 recites the messages transmitted to the content site. By the above amendments, Claim 28 has been amended to specify “the message transmitted to the content site.”

### **Rejections Under 35 U.S.C. § 103**

Within the Office Action, Claims 1-15, 17-20 and 22-37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,937,392 to Alberts (hereinafter “Alberts”) in view of U.S. Patent No. 6,216,129 to Eldering (hereinafter “Eldering”) and in further view of U.S. Patent No. 6,584,492 to Cezar (hereinafter “Cezar”). The Applicants respectfully disagree as neither Alberts, Eldering, Cezar nor their combination teach classifying a plurality of matched messages according to a **target criterion**. Further, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of messages using a **selection criterion**.

Alberts teaches a banner advertising display system and method with frequency of advertisement control. Alberts teaches that a database has advertising campaign information, including identification information and frequency information for how often an ad is to be served. [Alberts, Abstract] Alberts further teaches that an ad server uses the campaign information from the database to control the relative ratios of serving ads, the distribution of ads throughout the day, and any triggering mechanisms for controlling what ads are served. [Alberts, Abstract] Alberts also teaches that to obtain efficient distribution of the ads relative to each other

and throughout the day, each ad is associated with at least two counters that are operated such that the system can quickly determine which ad is to be served. [Alberts, col. 1, line 66 - col. 2, line 4] It is also taught within Alberts that “[a]ds can be targeted to users seeking certain types of information, e.g., on a yellow pages system or on a search engine, access to ‘photography’ could cause the serving of an ad for a manufacturer of film; to users from particular geographic locations; to particular users; or to users at different times of the day.” [Alberts, col. 2, lines 19-24] Alberts does not teach categorizing a content site, categorizing messages, matching the message categorization with the site categorization to form a plurality of matched messages and classifying the plurality of matched messages according to a **target criterion**. Further, Alberts does not teach classifying a plurality of messages according to a **target criterion**. As described above, Alberts teaches serving an ad targeted to users seeking a certain type of information. Alberts also does not teach selecting a message from the plurality of classified messages using a **selection criterion**. As also recognized within the previous Office Action, Alberts does not teach that a **selection criterion** comprises a **price** associated with the message. Eldering appears to be cited for this purpose.

Within the Office Action, it is stated that Alberts teaches “where the ads based on a rotational system based on the frequency they were intended to be presented.” [Office Action, Page 5] Thus, clearly Alberts does not teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

Eldering teaches an advertisement selection system supporting discretionary target market characteristics. Eldering teaches an advertisement selection system in which vectors describing an actual or hypothetical market for a product or desired viewing audience can be determined. [Eldering, Abstract] Eldering also does not teach categorizing a content site, categorizing messages, matching the message categorization with the site categorization to form a plurality of matched messages and classifying the plurality of matched messages according to a **target criterion**. Further, Eldering does not teach classifying a plurality of messages according to a **target criterion**. Eldering also does not teach selecting a message from the plurality of classified messages using a **selection criterion**. Accordingly, neither Alberts, Eldering nor their combination teach categorizing a content site, categorizing messages, matching the message categorization with the site categorization to form a plurality of matched messages and classifying the plurality of matched messages according to a **target criterion**. Further, neither

Alberts, Eldering nor their combination teach classifying a plurality of messages according to a **target criterion**. Also, neither Alberts, Eldering nor their combination teach selecting a message from the plurality of classified messages using a **selection criterion**.

Although Eldering discusses pricing policies including one for content/opportunity provider based pricing and one for consumer based pricing, Eldering does not teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

Cezar teaches a process of banner advertising. The banner advertising of Cezar uses playlists which are placed in groups. The groups are compatible to the classifications of client web servers. Based on the groups, certain advertising is displayed which is considered applicable to a website. [Cezar, col. 7, lines 20-32 and col. 8, lines 3-12] However, Cezar does not teach classifying a plurality of messages according to a **target criterion**. Cezar also does not teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message. Accordingly, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

In contrast to the teachings of Alberts, Eldering, Cezar and their combination, the system and method for distributing advertising space of the presently claimed invention maximizes the revenue generated by the advertising space. The system and method targets the advertising to those most likely to be interested in it, and thus most likely to act on the advertisement, either by purchasing advertised items or performing other acts related to the advertisement. The system and method categorize advertisements, thereby allowing the advertisements to be more efficiently targeted to consumers, and associate a price with each advertisement, thereby allowing the distribution of advertisements to be maximized.

As taught within the present specification, a Content Inventory and Deal Manager 310 accepts and rejects message deals, generating a list of acceptable messages for transmission to a particular site, with message deals being categorized based on content, demographic classification, geographic classification, or other classification. [Present Specification, page 9, lines 18-21] It is further taught within the present specification that a “target is a category, channel, search engine keyword, a specific content page, a type of content, demographically

identified content, geographically identified content, and any combination or variation of these.”  
[Present Specification, page 11, lines 1-3]

The system and method of the presently claimed invention applies two criterion to determine which message is selected and delivered to a content site to be displayed. First, a plurality of messages are classified according to a **target criterion**. Then, one of the messages from the plurality of classified messages is selected using a **selection criterion**. The **selection criterion** comprises a **price** associated with the message. As described above, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

Within the Response to Arguments section of the Office Action, it is argued that Alberts teaches that the messages are selected for display based on the table location and counters, where the counters are attempting to display the ads at a certain frequency, which equates to “target criterion.” The Applicants disagree. As discussed above, it is taught within the present specification that a “**target** is a category, channel, search engine keyword, a specific content page, a type of content, demographically identified content, geographically identified content, and any combination or variation of these.” [Present Specification, page 11, lines 1-3] The counters and frequency of Alberts are not such a **target criterion** as claimed in the present application.

Within the Response to Arguments section of the Office Action, it is also argued that Alberts teaches selection criteria because the advertisement messages are selected for a reason or based on something. The Applicants again disagree. As discussed in detail above, Alberts does not teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

Within the Office Action, three references have been combined without any hint, teaching or suggestion in any of them to justify their combination. The teachings of the references are now being stretched beyond their actual teachings to attempt to justify the obviousness rejection. As described above in detail, neither Alberts, Eldering, Cezar nor their combination teach classifying a plurality of messages according to a **target criterion**. Further, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message.

The independent Claim 1 is directed to a method of distributing advertisements to a medium over a wide area network. The method of Claim 1 comprises determining a site categorization of a content site, determining a message categorization for each of a plurality of messages, each message containing a corresponding advertisement, matching the message categorization with the site categorization to form a plurality of matched messages for the content site, classifying the plurality of matched messages according to a **target criterion**, selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message and delivering the selected message to the content site from a server, the message comprising a format adapted to display in the corresponding content site. As described above, neither Alberts, Eldering, Cezar nor their combination teach classifying the plurality of matched messages according to a **target criterion**. As also described above, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message. For at least these reasons, the independent Claim 1 is allowable over the teachings of Alberts, Eldering, Cezar and their combination.

Claims 2-15 and 17-20 are all dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Alberts, Eldering, Cezar and their combination. Accordingly, the Claims 2-15 and 17-20 are all also allowable as being dependent on an allowable base claim.

The independent Claim 22 is directed to a system for distributing advertisements to a medium. The system of Claim 22 comprises a database containing a plurality of messages organized by a **targeting classification**, a content inventory and inventory and deal manager configured to determine a site categorization of a content site, determine a message categorization for each of the plurality of messages, match the message categorization with the site categorization to form a plurality of matched messages for the content site and select a message from the plurality of matched messages according to a **selection criteria**, the **selection criteria** including a **price metric** and a message server configured to transmit the selected message from the database to a content site. As described above, neither Alberts, Eldering, Cezar nor their combination teach classifying the plurality of matched messages according to a **target criterion**. As also described above, neither Alberts, Eldering, Cezar nor their combination teach a content inventory and inventory and deal manager configured to select a message from

the plurality of matched messages according to a **selection criterion**, the **selection criteria** including a **price metric**. For at least these reasons, the independent Claim 22 is allowable over the teachings of Alberts, Eldering, Cezar and their combination.

Claims 23-32 are all dependent on the independent Claim 22. As described above, the independent Claim 22 is allowable over the teachings of Alberts, Eldering, Cezar and their combination. Accordingly, the Claims 22-32 are all also allowable as being dependent on an allowable base claim.

The independent Claim 33 is directed to a system for distributing advertisements to a medium. The system of Claim 33 comprises an advertiser campaign manager configured to generate a plurality of campaigns, each campaign comprising a plurality of messages, targets, and a price associated with each message, each message having an associated advertisement, a storage device for storing the plurality of campaigns, a content inventory and deal manager configured to classify the plurality of messages according to the **targets** such that each **target** is associated with two or more classified messages, and to associate a price metric with each message, a marketplace configured to select a message from the database for distribution to a content site according to a **selection criteria**, the **selection criteria** including a **price metric** and a business rule of the content site and a message server configured to transmit the selected message to a content site, wherein the marketplace is coupled to the advertiser campaign manager, the storage device, the content inventory and deal manager, and the message server. As described above, neither Alberts, Eldering, Cezar nor their combination teach classifying the plurality of matched messages according to a **target criterion**. As also described above, neither Alberts, Eldering, Cezar nor their combination teach a marketplace configured to select a message from the database for distribution to a content site according to a **selection criteria**, the **selection criteria** including a **price metric** and a business rule of the content site. For at least these reasons, the independent Claim 33 is allowable over the teachings of Alberts, Eldering, Cezar and their combination.

Claims 34 and 35 are both dependent on the independent Claim 33. As described above, the independent Claim 33 is allowable over the teachings of Alberts, Eldering, Cezar and their combination. Accordingly, the Claims 34 and 35 are both also allowable as being dependent on an allowable base claim.

The independent Claim 36 is directed to a method of distributing advertisements to a medium over a wide area network. The method of Claim 36 comprises determining a site

categorization of a content site, determining a message categorization for each of a plurality of messages, each message containing a corresponding advertisement, matching the message categorization with the site categorization to form a plurality of matched messages for the content site, classifying the plurality of matched messages according to a **target criterion**, selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message and a ranking of each of the plurality of messages, delivering the selected message to the content site from a server, the message comprising a format adapted to display in the corresponding content site, wherein the message is automatically generated based on a characteristic of the content site and generating tracking information by tracking delivery and results of the selected message. As described above, neither Alberts, Eldering, Cezar nor their combination teach classifying the plurality of matched messages according to a **target criterion**. As also described above, neither Alberts, Eldering, Cezar nor their combination teach selecting a message from the plurality of matched messages using a **selection criterion**, the **selection criteria** comprising a **price** associated with the message. For at least these reasons, the independent Claim 36 is allowable over the teachings of Alberts, Eldering, Cezar and their combination.

The independent Claim 37 is directed to a system for distributing advertisements to a medium. The system of Claim 37 comprises a database containing a plurality of messages organized by a targeting classification and ranked according to a ranking criterion, a content inventory and inventory and deal manager configured to determine a site categorization of a content site, determine a message categorization for each of the plurality of messages, match the message categorization with the site categorization to form a plurality of matched messages for the content site and select a message from the plurality of matched messages according to a **selection criteria**, the **selection criteria** including a **price metric**, wherein the content inventory and inventory and deal manager is configured to generate a tag embedded in a page configured to be transmitted to the content site, the tag identifying a location in the page for displaying the advertisement, a message server configured to transmit the selected message from the database to a content site, a marketplace coupled to the content inventory and deal manager, the marketplace configured to transmit a selected message to the content site, a tracking server coupled to the marketplace, the tracking server configured to collect data on the messages transmitted to the content site and results from messages, an advertiser and campaign manager coupled to the marketplace, the advertiser and campaign manager configured to manage campaigns, thereby



generating a set of message deals that content sites can accept or reject and an advertiser reporting system coupled to the marketplace, the advertiser reporting system configured to collect data on message deals and results to generate reporting data. As described above, neither Alberts, Eldering, Cezar nor their combination teach classifying the plurality of matched messages according to a **target criterion**. As also described above, neither Alberts, Eldering, Cezar nor their combination teach a content inventory and inventory and deal manager configured to select a message from the plurality of matched messages according to a **selection criterion**, the **selection criteria** including a **price metric**. For at least these reasons, the independent Claim 37 is allowable over the teachings of Alberts, Eldering, Cezar and their combination.

Within the Office Action, Claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Alberts in view of Eldering and Cezar and further in view of U.S. Patent No. 6,993,553 to Kaneko. Claim 16 is dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Alberts, Eldering, Cezar and their combination. Accordingly, the Claim 16 is also allowable as being dependent on an allowable base claim.

For the reasons given above, the Applicants respectfully submit that the claims are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,  
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